

REMARKS

The paper is in response to the Office Action mailed July 23, 2010 ("the Office Action"). The foregoing amendment cancels claims 78, 79, 81, and 82 and amends claims 51-77, 80, and 83-100. Claims 51-77, 80, and 83-100 are now pending in view of the amendments. Applicants respectfully request reconsideration of the application in view of the above amendments to the claims and the following remarks. For Examiner's convenience and reference, Applicants present remarks in the order that the Office Action raises the corresponding issues.

In connection with the prosecution of this case and any related cases, Applicants have, and/or may, discuss various aspects of the disclosure of the cited references as those references are then understood by the Applicants. Because such discussion could reflect an incomplete or incorrect understanding of one or more of the references, the position of the Applicants with respect to a reference is not necessarily fixed or irrevocable. Applicants thus hereby reserve the right, both during and after prosecution of this case, to modify the views expressed with regard to any reference.

Please note that Applicants do not intend the following remarks to be an exhaustive enumeration of the distinctions between any cited references and the claims. Rather, Applicants present the distinctions below solely by way of example to illustrate some of the differences between the claims and the cited references. Finally, Applicants request that Examiner carefully review any references discussed below to ensure that Applicants' understanding and discussion of any reference is consistent with Examiner's understanding.

Unless otherwise explicitly stated, the term "Applicants" is used herein generically and may refer to a single inventor, a set of inventors, an appropriate assignee, or any other entity or person with authority to prosecute this application.

Objection to the Specification

The Patent Office objects to the specification for the length of the Abstract. In response, the Applicant has amended the specification to comply with the specified word count. As such, the Applicant respectfully requests that the objection to the specification be withdrawn.

The Applicant has also amended the specification to include headings as recommended in the MPEP 608.01(a).

Rejection Under 35 U.S.C. § 101

The Office Action rejects claims 80-82 as being directed to non-statutory subject matter. Claim 82 has been canceled and claim 80 has been amended to combine claim 81 thereto. Claim 80 has been amended as suggested by the Patent office to include the limitation of "non-transitory" subject matter. As such, claim 80 is believed to be statutory and the Applicant respectfully requests that the rejection of claim 80 be withdrawn.

Rejection Under 35 U.S.C. §102/103

The Office Action rejects claims 51-100 under 35 U.S.C. §103(a) over *Gudat et al* (U.S. Patent No. 6,771,609).

Under 35 U.S.C §103(a), "[a] patent may not be obtained . . . if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains." According to MPEP §2142, "[t]he examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness." Finally, MPEP 2141.III notes that:

"The key to supporting any rejection under 35 U.S.C. 103 is the *clear articulation of the reason(s) why the claimed invention would have been obvious*. The Supreme Court in *KSR* noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit. The Court quoting *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006), stated that "[R]ejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *KSR*, 550 U.S. at ___, 82 USPQ2d at 1396." (emphasis added)

Claim 51 has been amended to include the elements of claims 78 and 79 (now canceled). Claim 83 has been amended to include similar elements. The remaining pending claims depend from either claim 51 or claim 83.

More specifically, claim 51 has been amended to require the step of "preparing an individualized dataset specific to an identified site-modifying mobile apparatus, said individualized dataset comprising at least selected worksite management attribute parameter values for the requirements of that identified site-modifying mobile apparatus, wherein said individualized dataset relates only to cells of a region of said worksite where said identified site-modifying apparatus is programmed to be present over a determined time window."

The Applicant respectfully asserts that Gudat does not teach or suggest this element in combination with the other elements of claims 51 and 83. For example, the cited paragraph at column 16, line 49 – column 17, line 23 **does not teach or suggest a solution** where an **individualized dataset** (extracted from an attribute database containing a full attribute data set where, to each of the cells, values of worksite management and communication attributes are stored) is **prepared specific to an identified mobile apparatus**. Therein, the **individualized dataset** are optimized with respect to the requirements of the respective identified mobile apparatus.

As explained in the description (see e.g. the corresponding passages cited below), this has the advantage of economizing the transmission bandwidth and the onboard memory space (i.e. so as to save on bandwidth and local memory space).

"As will be explained in more detail further, the bulldozer 36 is provided with an individualised attribute data set that is limited to its specific requirements at a current time as concerns both its geographical location and the type of attribute data it specifically requires." [page 33 of the WO-publication]

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"For those cells, only the attribute data likely to be required by the bulldozer are incorporated in the individualised attribute data set, again to save on bandwidth and local memory space. Thus, the reduction of information in creating an individualised attribute data set operates on two levels: the topology of the cells (selection of only the pertinent cells) and the

types of attribute data (selection of only the pertinent attribute data parameters), corresponding respectively to the x-y plane and the depth dimension of the attribute data space 6 (cf. figure 4)," [page 45 of the WO-publication)

As mentioned above, Gudat is silent with respect to the issue of preparing individualized datasets (from an attribute database containing a full attribute data set). Contrarily thereto, in the passage cited by the Examiner with respect to these features, it is suggested that the *"local digital computer"* of the mobile apparatus has stored *"digitized models of the work site 70"*, wherein the *"digitized models may be representations of the terrain map or of an environmental map which corresponds to the entire area of the work site"* Column 17, lines 5-12 (emphasis added).

In summary, there is no teaching or suggestion in Gudat that - for the purpose of economizing on transmission bandwidth and on onboard memory space - a reduced dataset (i.e. limited to the particular specific requirements) is prepared out of the entire data-set and transmitted to the mobile apparatus. In fact, given such citations above Gudat even teaches away from the inventive subject matter of amended claim 51 and 83. As such, the Applicant respectfully requests that the rejections of the pending claims be withdrawn.

Charge Authorization

The Commissioner is hereby authorized to charge payment of any of the following fees that may be applicable to this communication, or credit any overpayment, to Deposit Account No. 23-3178: (1) any filing fees required under 37 CFR § 1.16; (2) any patent application and reexamination processing fees under 37 CFR § 1.17; and/or (3) any post issuance fees under 37 CFR § 1.20. In addition, if any additional extension of time is required, which has not otherwise been requested, please consider this a petition therefor and charge any additional fees that may be required to Deposit Account No. 23-3178.

CONCLUSION

In view of the foregoing, Applicants submit that the pending claims are allowable. In the event that Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview or overcome by an Examiner's Amendment, Examiner is requested to contact the undersigned attorney.

Dated this 18th day of November, 2010.

Respectfully submitted,

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